

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2008-031021-001 DT

05/27/2014

HON. SHERRY K. STEPHENS

CLERK OF THE COURT
S. Perez
Deputy

STATE OF ARIZONA

JUAN M MARTINEZ

v.

JODI ANN ARIAS (001)

KIRK NURMI
JENNIFER L WILLMOTT

CAPITAL CASE MANAGER

RULING

The Court has considered the Motion to Reconsider and Re-Urge Request for Evidentiary Hearing on Motion to Dismiss State's Notice of Intent to Seek the Death Penalty Due to State's Preclusion of Mitigation Specialist filed March 31, 2014, the Objection to Motion to Reconsider and Re-Urge Request for Evidentiary Hearing on Motion to Dismiss State's Notice of Intent to Seek the Death Penalty Due to State's Preclusion of Mitigation Specialist filed April 7, 2014, the Reply to State's Objection to Motion to Reconsider and Re-Urge Request for Evidentiary Hearing on Motion to Dismiss State's Notice of Intent to Seek the Death Penalty Due to State's Preclusion of Mitigation Specialist filed on April 10, 2014, the sealed Stipulation Between Counsel for Jodi Ann Arias and Maricopa County Sheriff's Office dated March 19, 2014, and the oral argument and offer of proof by defense counsel provided on May 16, 2014.

Defendant seeks an order dismissing the State's Notice of Intent to Seek the Death Penalty because the mitigation specialist assigned to her case was banned from the Maricopa County Jail for a period of one week. Defendant claims this incident prejudiced her ability to prepare her mitigation, has affected the relationship between the defendant and her defense team in that there is now a lack of trust, and has resulted in the mitigation specialist being treated differently by the Maricopa County Sheriff. Defendant seeks an ex parte sealed evidentiary hearing to establish these facts.

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The Court finds no evidentiary hearing is necessary. The Court will assume the facts provided in the defendant's offer of proof are true for purposes of this ruling.

The Court finds the defendant has failed to establish she suffered any prejudice as a result of the incident involving the mitigation specialist. Defendant has not established the relationship with her attorneys was affected in any way by the incident. The attorneys were not involved in the incident. Within days of the incident, the defendant's attorneys met with representatives from the Maricopa County Sheriff's Office and negotiated an agreement favorable to the defendant. The Maricopa County Sheriff's Office agreed the mitigation specialist would be afforded all of the same privileges she had prior to the revocation of her privileges seven days earlier.

This court has observed the defendant interacting with the mitigation specialist in court on several occasions since the incident at issue occurred. There does not appear to be any change in the relationship between the mitigation specialist and the defendant. In the offer of proof, Defendant failed to establish any basis for the allegation that the mitigation specialist has been treated differently by the Maricopa County Sheriff's Office since the incident occurred. Further, Defendant provided no specific information in the offer of proof regarding how the incident will impact her ability to present mitigation evidence at the penalty phase retrial.

No good cause appearing,

IT IS ORDERED denying the Motion to Reconsider and Re-Urge Request for Evidentiary Hearing on Motion to Dismiss State's Notice of Intent to Seek the Death Penalty Due to State's Preclusion of Mitigation Specialist filed March 31, 2014.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.